

INFORMATION SHEET

DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: OMAHA DIST DRO

FILE NUMBER: 200480249

REGULATORY PROJECT MANAGER: MCKEE

PROJECT REVIEW/DETERMINATION COMPLETED:

In the office

Date: May 26, 2004

At the project site

Date:

PROJECT LOCATION INFORMATION:

State: Colorado

County: Larimer

Center coordinates of site by latitude & longitudinal **coordinates:** 40-17-43.9651 105-09-45.1295

Approximate size of site/property (including uplands & in **acres:** 620 ac

Name of waterway or **watershed:** Dry Creek

SITE CONDITIONS: rural dry upland surrounds the aquatic sites

Type of aquatic resource ¹	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
Stream									
Dry Wash									
x Mudflat (Alkaline Flats)				x					
Sandflat									
x Wetlands						x			
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)									

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors ¹ :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?			x		
Is or would be used as habitat by other migratory birds that cross state lines?			x		
Is or would be used as habitat for endangered species?					x
Is used to irrigate crops sold in interstate commerce?					

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION: **Approved** x **Preliminary**

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 – site conditions; paragraphs 2-3 – rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 – site information on waters of the U.S. occurring onsite):

This wetland drainage to Dry Creek, including the reach containing the proposed Dry Creek Reservoir project, was determined to be non-jurisdictional based on the fact that the flow for the 2-year return period at its confluence with Dry Creek flows less than every two years. This information submitted by Julie Ash of Walsh was determined using USGS Water Resources Investigation Report 99-4190, Analysis of the Magnitude and Frequency of Floods in Colorado.